for The Defense

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The Training Newsletter for the Maricopa County Public Defender's Office ⋈ Dean Trebesch, Maricopa County Public Defender

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"ANOTHER FINE MESS . . ." A DEFENDER VIEW OF THE AGONIES AND MYSTERIES OF *KNAPP* ASSOCIATION

By Thomas Klobas
Deputy Public Defender

Imagine yourself - you have begun the task of representing a client. The case appears much the same as any other. Perhaps a bit more client dissatisfaction than most, but nothing you can't handle.

Then, you receive a phone call. It is from a "street lawyer" of whose name and reputation you have only the vaguest of recollections. He/she informs you, that due to the generosity of a family member of your client, he/she is associating with you to handle the client's case. You are further informed that because of the limited nature of the retainer, this attorney isn't taking over the case from you, but will only be assisting you. Welcome to the strange and challenging world of "*Knapp* association."

If a poll were ever taken of members of the office who have had to deal with this type of professional association, I would venture a guess that few would speak well of it. As one cynical veteran of several such encounters phrased it, "they get their money and we still do all the work." While certainly illustrating the worst fears of such a relationship, that view doesn't accurately summarize the total scope of what *Knapp* association is, or how it can be both a blessing as well as a curse.

Having recently conducted a jury trial under this scenario, as well as having observed first hand the dynamics of several similar cases handled by other attorneys in the office, it is my intention to describe some of the pitfalls, as well as the benefits, it can bring to a case.

A Little History

The term "*Knapp* association" identifies the origin of this somewhat infrequent practice. *Knapp v. Hardy*, 111 Ariz.107, 523 P.2d 1308 (1974), was an opinion handed down by our Supreme Court which legitimatized the process of permitting a retained attorney to assist a public defender while continuing to preserve the indigency status of the client. In reaching that result, the Court held that "the determination of indigency must be based on [the defendant's] financial condition and not that of relatives and friends."[1] The Court felt that the presence of a retained assistant counsel to help out would create a benefit to taxpayers by relieving the public defender of spending both time and public money which might otherwise be expended if the defender had "the sole responsibility for the defense."[2] (We will revisit this issue of responsibility shortly.)

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Once the assisting retained attorney has filed his/her notice of appearance with the trial court, he/she will be entitled to all the "reciprocal rights and duties" of appointed counsel.[3] These include the right to be recognized as counsel by the prosecutor.

The *Knapp* opinion was not uttered without a dissenting voice. Justice Holohan believed that the majority had ignored "the impossible contradiction" of private and taxpayer-supplied counsel simultaneously representing a person in the same matter. He felt that this newly approved concept would "encourage abuse of the public defender system" and lead to "mischief."[4]

Despite the passage of nearly a quarter century since the *Knapp* opinion was published, there has been very little mention of it in subsequent opinions. The words spoken then are still our only guide on how this strange marriage between members of the private and public bars should function in the representation of a single "indigent" defendant.

"Or simply put, how do we keep *Knapp v. Hardy* from becoming something resembling a script for Laurel and Hardy?"

Examining the Peculiarities

Let's examine the peculiarities of this "marriage" in light of the goal of effective representation by public defenders. Or simply put, how do we keep *Knapp v. Hardy* from becoming something resembling a script for Laurel and Hardy?

The concept of two attorneys working on behalf of the same client on the same case seems on its face to be an attractive proposition. After all, two is better than one, right? Well, not always. And in the case of *Knapp* associations, the latter appears to occur with frequent regularity.

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The very effort of the client or his family in seeking alternative representation indicates a significant dissatisfaction with the assigned public defender. After all, clients would see no reason to spend money for legal services if they were satisfied with what they were receiving for free. And the fact that a private attorney has accepted representation should serve as a statement by that attorney that he or she has told the client to expect something that the public defender is not providing. The situation is ripe for a serious disagreements over case strategy, selection of defenses, selection of experts, pretrial motion practice, or perhaps the most crucial decision of all, whether or not to accept a plea offer.

The public defender must realize that in a *Knapp* representation, the client will invariably have more faith and trust in the retained attorney and that attorney knows it. After all, a lack of trust in the defender was probably a major reason private counsel was sought. And it matters not whether this lack of faith was the result of a specific dislike of a particular defender, or because of a systematic belief in the mythical superiority of "street lawyers." This position of the client will be something the public defender will have to recognize, accept, and cope with throughout the case.

We are all aware that retained counsel are very concerned with the economics of private practice. Simply put, they try to maximize revenue while attempting to reduce expenditures. Since retained counsel has agreed to participate in the case for less than his/her customary fee, that attorney will probably be extremely vigilant about absorbing any more than those expenses which are absolutely unavoidable. In fact, I believe that the availability of public defender resources, particularly investigators and process servers, may be a critical factor in the retained attorney's decision to agree to cut-rate representation. It is safe to conclude that significant expenses such as the use of investigators, retention of experts, conducting scientific tests, and the transportation of witnesses, are not ones which private counsel will willingly absorb. This obvious fact of life was ignored by the *Knapp* court which strongly emphasized the savings which could accrue to the taxpayer through this public-private lawyer combination.

Therefore, the public defender must assert careful control of case expenditures and investigative resources, and not agree to suggestions simply to avoid confrontations. In my experience, this failure to accede to such suggestions may be reported back to the client in a manner which will cause further damage to the already fragile relationship the defender may have with the client.

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Don't Forget to Lead

Despite language in *Knapp* which implies a shared responsibility for the defense, expect the court to continue considering the public defender to be lead counsel on the case. After all, the *Knapp* association is defined as "assisting" the public defender. This arrangement can only work successfully if both counsel cooperate fully and, most importantly, accept the public defender as lead counsel. That means the public defender is considered to have the final say on all critical decisions involving the representation (including the previously mentioned expenditure of funds). Yet the retained attorney is often more experienced than the defender, a feature that no doubt was a selling point in getting the client to retain him/her. Without even considering the role played by individual egos, the retained attorney probably did not get retained by emphasizing that he/she would only serve as backup to someone else. This circumstance can result in a public display before the court, with the public defender seemingly in charge of the case, but a totally different picture outside the courtroom. It is the cause of much defender frustration, especially when the retained counsel fails to appear for scheduled court hearings, safe in the knowledge that the court will only be concerned if lead counsel is not there.

Occasionally the problems you may be having with retained counsel may be such as to justify bringing them to the attention of the trial court. However, don't expect a great deal of help as most courts will be less than eager to inject themselves into squabbles among counsel for the client. From my viewpoint, the best you can expect is a strong statement to all concerned that the defender is lead counsel in the eyes of the court, followed by an plea for the parties to straighten out their differences.

Can there be a positive side?

As an ideal, there is much to be gained from the association of a public defender and retained attorney. Most obvious, and one which was featured in *Knapp* itself, is the ability to share the burden of conducting pretrial interviews. Depending on the resources available to the retained attorney, the defender may also benefit by rapid transcription of interviews. One caveat: always make sure that each party consults before and after such interviews to exchange tapes, and obtain or provide a briefing on what transpired. Failure to do so may limit the productivity of later interviews.

The most successful situations seem to be those where the retention of private counsel is being done with the aim of assisting in a collateral matter. These can include domestic relations, immigration, or licensing proceedings, activities from which the public defender is precluded from representing the client. Here the expertise of retained counsel may be grounded in these other areas, and no attempt is made to subvert the role of the defender in the criminal cause.

"The most successful situations seem to be those where the retention of private counsel is being done with the aim of assisting in a collateral matter."

An exceptionally fruitful opportunity occurs when the defender associates with an attorney who is handling the client's matter in a related civil case. One example occurs when the defendant has been charged with a vehicle crime, and the alleged victim is also seeking compensation in a civil action against the client. In a recent instance, a public defender was able to coordinate with and utilize civil discovery practices which included an ability to depose the plaintiff/victim, something not achievable in the criminal matter. Of course, this can occur whether or not the civil lawyer chooses to participate in the criminal representation.

Proceed With Caution

As one can undoubtedly discern, *Knapp* association is not for the unwary. It focuses heavily on the interrelationship between the two attorneys, as well as between them and the shared client. Perhaps it resembles a "menage a trois" more than a marriage. It is a situation where the public defender should immediately consult with his or her supervisor for guidance upon being informed of the association.

The basic premise of the *Knapp* decision, that two attorneys will always provide competent representation even if one is public and the other private, is flawed. It is not easy for two attorneys, only one of whom is a voluntary participant, each of whom is driven by differing motives, and each of whom has an individual and perhaps widely differing relationship with the client, to operate in an atmosphere of harmony.

In practice, the problems created by such a relationship far out number the benefits, and some of the problems can be insurmountable. It can be one of the most difficult and trying episodes you may ever have to face as a public defender, and under *Knapp*, you have little recourse but to accept this ofttimes unpleasant situation. ■

1. 111 Ariz. at 110, 523 P.2d at 1311.
2. 111 Ariz. at 111, 523 P.2d at 1312.
3. *Id.*
4. 111Ariz. At 114, 523 P.2d at 1315 (Holohan, J., dissenting).

RAJIs. . .Really Abysmal Jury Instructions

By Shelley Davis
Trial Group Counsel, Group A

Jury instructions are a crucial part of trial practice. As many appellate attorneys can and will tell you, cases are often reversed on the basis of errors in jury instructions. (See Anna Unterberger's article "The Condemned Self-Defense RAJIs that Refuse to Die," *for The Defense*, Volume 8, Issue 4 April, 1998). It is interesting to note that RAJI now stands for *Revised* Arizona Jury Instructions, not *Recommended* Arizona Jury Instructions. It is also important to note that the RAJI's were published in 1989. Case law has changed in many areas and one cannot rely on the RAJI's to contain a correct statement of the law.

A recent case in point is *State v. Doss*, 1 CA-CR 97-0416, filed April 14, 1998, _____ Ariz. Adv. Rep. ____, a Division One Court of Appeals case. Brad Bransky represented Mr. Doss at trial. He was charged, among other things, with seven counts of endangerment, for firing two shots into a house occupied by seven family members. The court, over defendant's objection, gave the following instruction, based on RAJI 12.01:

> Each of the charges of endangerment requires proof beyond a reasonable doubt that the defendant consciously disregarded a substantial risk that his conduct could cause imminent death of the person named in each charge.
>
> The risk must be of such a nature and degree that disregard of such risk constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation.

"Case law has changed in many areas and one cannot rely on the RAJI's to contain a correct statement of the law."

The defendant argued, and the appellate court agreed, that the instruction should have included the element that the victim must be placed in actual substantial risk of imminent death. In order for the jury to convict the defendant of endangerment, the state must prove beyond a reasonable doubt not only *the culpable mental state* (that defendant disregarded a substantial risk that his conduct would cause imminent death) but *the required act* (that his conduct did in fact create such a substantial risk to each victim). The court found that the erroneous instruction was not harmless because it undermined the defense to those charges which was that the defendant did not place the victims in actual substantial risk of imminent death.

A proper endangerment instruction is attached to this newsletter. Thanks to Brad Bransky and Ed McGee who argued the issue on appeal. ■

AND WHAT A YEAR IT WAS. . .
The 1998 Legislative Review

By Meg Wuebbels
Legislative Liaison

Well, the 1998 legislative session has finally ended! This session had been notable for many reasons, including the fact it was the longest session in history where the same party had control of the House, Senate and the governorship. We tracked over eighty-five bills pertaining to criminal issues and this year. I want to thank everyone in the office for their support and willingness to help me with these issues, especially those of you who came down to testify and were able to witness first hand just how much fun Arizona politics can be. Legislation passed during the 1998 session will become law ninety days from the last day of the session, August 21, 1998. If accompanied by an emergency clause, the legislation is effective immediately upon the Governor's signature. So here are the highlights and low lights and all the other changes to the criminal code:

Drug Courts and Probation

- 13-914 - Allows a court to reduce the mandatory number of community service hours required on intensive probation from forty to not less than twenty per month after making a finding of "good cause".

- 13-3422 - Allows the presiding judge in each county statewide to establish a drug court program modeled on the well-received Maricopa County program. It is unclear whether Maricopa County will adopt this drug court or continue the program already in place. This drug court allows persons to be admitted to drug court only upon the agreement of the court and prosecutor. Persons are statutorily excluded from drug court if they have EVER been convicted of a serious offense as

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defined in 13-604, any offense under chapter 14 of this title, any offense involving the discharge, use or threat of a deadly weapon or the intentional or knowing infliction of serious physical injury, or the person has previously been terminated from a drug court program. Persons convicted of a statutorily proscribed list of offenses and enrolled in drug court programs may be eligible to be placed on probation without entering a judgment of guilt. If probation is successfully completed, the court may discharge a defendant and dismiss all further proceedings.

Vehicles and Traffic

- 13-1803 - Changes unlawful use of a motor vehicle to a class five felony for the driver of the vehicle, but leaves it a class six for the passenger. This was a compromise from the class three felony that the sponsors of the bill originally wanted.

- 13-1813 - Creates a new crime of theft of a means of transportation and makes it a class three felony. For purposes of plea bargaining, there is nothing in the old theft statutes that would prevent you from using them in relation to vehicle theft.

"For purposes of plea bargaining, there is nothing in the old theft statutes that would prevent you from using them in relation to vehicle theft."

- 28-695 - Creates a new crime of aggressive driving in an effort to combat "road rage." It is now a class one misdemeanor to commit at least two of an enumerated list of traffic offenses such as speeding, unsafe lane change, following too closely, failure to yield or failure to obey traffic devices within a "course of conduct," defined as a single, continuous period of driving. Persons convicted of this offense shall attend drivers' safety school and may have their license suspended for thirty days. A second violation within twenty-four months requires mandatory revocation of driving privileges for one year. The original version of this bill required mandatory suspension of a driver's license for thirty days on a first offense and contained a much broader definition of what actions constituted aggressive driving.

Domestic Violence

- 13-2921 - Definition of harassment is broadened to include "surveils or causes one to surveil for no legitimate purpose" and interference with delivery of utilities or making false reports to law enforcement, credit or social service agencies.

- 13-2921.01 - Creates a new crime of aggravated harassment if a person commits harassment against a victim who has a valid restraining order or injunction against harassment against the person. This is a class six felony. It is a class five felony to commit aggravated harassment if the person had previously been convicted of any offense in 13-3601 against the same victim. A conviction under this section includes domestic violence deferrals or delinquent conduct committed as a juvenile that would constitute a historical prior if tried as an adult. The crime of stalking is raised from a class four to a class three felony. In the original version of this bill, stalking was defined as an activity that would cause a reasonable person to fear physical injury or death to themselves or a family member. Reasonable person was defined a person with the perspective of a reasonable person who has been the victim of a past stalking.

- 13-3601.01 - Allows for supervised probation for persons who commit a second misdemeanor domestic violence offense within sixty months of their first conviction. During any period of incarceration pursuant to the grant of supervised probation, the court may allow the person to be considered for a work release program.

- 13-3601.02 - Creates a new class five felony offense of aggravated domestic violence. A person is guilty of aggravated domestic violence if the person, within a period of sixty months, commits a third or subsequent violation of a domestic violence offense defined as an offense involving domestic violence in 13-3601. Persons convicted of this offense must serve at least four months in jail if it is the third violation, and no less than eight months in jail if it is the fourth or more conviction. Convictions arising out of the same series of acts do not count as additional convictions for purposes of this provision. The original version of this bill required the person to serve time in prison instead of jail.

Evidence

- 13-3989.01 - Allows for the admissibility of 911 recordings without testimony from a records custodian when accompanied by an affidavit

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prescribed in the statute. These recordings are deemed to be authenticated pursuant to Rule 901(b)(10) of the Arizona Rules of Evidence. There was an attempt to have these records deemed "public records" in the statute which may have also qualified them for the public records hearsay exception under Rule 903(8), however this was averted, so the tapes remain hearsay subject to another exception or unless being offered for a non-hearsay purpose.

- 13-1421 - Codifies the "rape shield" case law under the *Pope-Oliver-Castro* trilogy, in that it prohibits evidence of reputation or chastity of the victim, but may allow evidence of specific instances of victims prior sexual conduct under a statutory list of exceptions. Using the standard for Rule 404(b) evidence laid out by the Arizona Supreme Court in *State v. Terrazas,* this statute proclaims to "level the playing field" by requiring that any evidence offered under one of the enumerated statutory exceptions be proven by clear and convincing evidence. This particular piece of legislation may have significant constitutional problems and would be ripe for a court challenge.

"13-1813 - Makes it a class six felony if you fail to make a car payment for ninety days and you do not return the car to the secured lien holder. Any vehicle that is not returned pursuant to this section is a stolen vehicle for purposes of 28-4845. And you thought debtor's prisons were unconstitutional!"

- 13-4062 - Changes the holder of the marital privilege for both adverse testimony and confidential communications from the defendant-spouse to the witness-spouse for any offense listed in 13-604. This mirrors the federal rule. A much broader version of this bill was introduced last year and failed to pass.

Sex Crimes

- 13-604.10 - Adults convicted of dangerous crimes against children in the first degree for either sexual assault or sexual conduct with a minor under twelve SHALL be sentenced to imprisonment for a period of 35 years to life. This does not apply to masturbatory contact.

- 13-1406 - Allows for an increased additional prison sentence of three years if the alleged sexual offense involves the knowing administration of flunitrazepam, gamma hydroxy butyrate or ketamine hydrochloride. There are no known cases of this happening in Arizona. Also permits a sentence of at least twenty-five to life for sexual assault if it involved the intentional or knowing infliction of serious injury.

- 13-3821 - Brings the Arizona sex offender registration statutes into compliance with federal mandates. Registration will now be required for persons convicted of unlawful imprisonment pursuant to 13-1303 or kidnaping pursuant to 13-1304 where the victim is under eighteen years of age and the offense was not committed by the child's parent. Persons required to register must only register, absent subsequent or additional convictions and fulfillment of all restitution requirements, for a period of ten years from the date the person is released from jail, prison, probation or community supervision.

- 13-3827 - Creates a sex offender web site for offenders whose risk assessment has been determined to be a level 2 or level 3. The web site shall contain name, address, date of birth, current photograph, offense committed and notification level. The original version of this bill would have placed all registered sex offenders on the web site.

New Crimes

- 13-3625 - It is now illegal to sell or buy a child for money or any valuable consideration. Adoption is specifically precluded from this.

- 13-1813 - Makes it a class six felony if you fail to make a car payment for ninety days and you do not return the car to the secured lien holder. Any vehicle that is not returned pursuant to this section is a stolen vehicle for purposes of 28-4845. And you thought debtor's prisons were unconstitutional!

- 13-1101 - In *State v. Ramirez,* which challenged a popular first degree murder jury instruction, the Court of Appeals ruled that the passage of a period of time does not equal a period of reflection for purposes of establishing premeditation. The legislature amended the premeditation statute so it now states that ANY length of time qualifies as a period reflection and proof of actual reflection is *not* required.

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- 13-4802 - Makes it a class four felony to knowingly possess a cloned cellular or wireless phone or an instrument capable of acquiring an electronic serial number and mobile identification numbers with the intent to clone a cellular or wireless phone, or sell a cloned or wireless phone. This section does not apply to law enforcement officers acting within the scope of their duty, or employees or agents of service providers acting within the lawful scope of their employment.

- 13-3018 - Surreptitious photographing of persons in any place where they have a reasonable expectation of privacy, such as locker rooms or public bathrooms, while the person is urinating, defecating, dressing, undressing, nude or involved in sexual intercourse or sexual contact pursuant to 13-1401 is a class five felony.

- 13-2916 - After all of Brian Bond's hard work in *State v. Musser*, which declared the telephone harassment statute unconstitutional for overbreadth, the legislature amended the provision in an attempt to make it more specific so as to cure the constitutional concerns.

"Additionally, anyone convicted of extreme DUI may be required to equip their car with a certified ignition interlock device before their license will be reinstated."

- 13-3707 - Telecommunications fraud is changed to a class three felony. Previously, it ranged from a class four felony to a class one misdemeanor depending on the value of the services.

- 28-1382 - Establishes a new crime of Extreme DUI for persons driving with a blood alcohol over .18. First offense is a class one misdemeanor and similar to regular DUI, except there is an assessment of $250 above any fines and fees that can be imposed on regular first time DUI, and 30 days mandatory jail with 20 days suspended if a person completes court ordered counseling, testing or treatment. Second offense Extreme DUI requires a $250 assessment in addition to any fines and fees that can be imposed on a second offense DUI, 120 days in jail with 60 to be served consecutively and 60 days may be suspended if a person completes court ordered counseling, testing or treatment, and the driver's license shall be revoked. Additionally, anyone convicted of extreme DUI may be required to equip their car with a certified ignition interlock device before their license will be reinstated. There was a competing bill, which failed to pass, that would have made it an Extreme DUI if a person was driving with a blood alcohol level of .15. A conviction under this bill would have made it mandatory after a first offense that persons have a certified ignition interlock device installed on their car before their license could be reinstated.

PCR and Capital Appeals

- 13-4041 - Expands the compensation and appointment mechanism for counsel in post-conviction relief proceedings. Appointed counsel may be from outside the Supreme Courts' approved list of qualified candidates if an attorney meets the requirements and no other counsel is available. Appointed counsel shall be paid a fee of not more than $100 per hour for up to 200 hours of work regardless of whether a petition is filed. The court may pay for work in excess of 200 hours on showing of good cause. The petition must be filed within 60 days of first notice and, only upon a specific and detailed showing of good cause, one 30 day extension may be granted in filing the petition. This bill passed with an emergency measure and became effective on June 1, 1998 when it was signed by the Governor.

- The statewide Capital Appellate Public Defender bill failed to pass again this year.

Enhanced Punishment

- 13-604 - Clears up what was viewed as a "loophole" in the code by adding pre-conviction custody to the list of situations in which a person would be eligible for an additional two years flat time in the Department or Corrections if they commit a felony while under that status. Many people thought that this situation was already covered under the escape statute. If you have a client charged with this offense, please note that there was testimony at the hearing that the crime of escape would NOT qualify as the felony being committed while escaped from pre-conviction custody, thus you cannot be convicted of an escape while escaped from pre-conviction custody.

- 13-609 - Adds an additional year to the sentence for any crime committed in a "school safety

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zone," which is defined as any area within 300 feet of a school or its accompanying grounds, any public property within 1000 feet of a school or its accompanying grounds, a school bus, a school bus stop, or any bus or bus stop where children are waiting, boarding or exiting a bus contracted to transport students to school.

- 28-1321 - Allows for a driver's license to be suspended for two years for an admin per se refusal if it is a second or subsequent refusal within sixty months.

- 13-702 - Creates a new statutory aggravating factor if a person is convicted of a violation of 13-1104 arising from an act where the defendant was operating a motor vehicle with a blood alcohol of .18 or more.

"Unlike the adult system where there is a classification system which places limits on dissemination, there is no classification system for juveniles."

Miscellaneous

- 12-102.01 - Criminal case improvement fund. This bill originally started as the "Fill the Gap" campaign, a coalition led by the Supreme Court and consisting of clerks, public defenders and prosecutors to persuade the legislature to fund the "middle" part of the criminal justice system, which is largely ignored in the drive to put more law enforcement on the streets, or build more jails and prisons. The original bill would have channeled almost a million dollars into indigent defense in Maricopa County. Sadly, the significant funding attached to the bill was deleted in the struggle for money during the legislature's waning days. Instead, the legislature appropriated $350,000 to the Supreme Court to study the problems of criminal case processing which shall be allocated to the counties for planning and implementation of a collaborative project designed to improve processing of criminal cases.

Juvenile

- HB 2218 *Truancy* - This bill makes changes to the truancy statutes (A.R.S. 15-802 and 15-803) by changing the definition of habitual truancy from 10 days absence to 5 days. It also changes the definition of truant to mean an unexcused absence for at least one class period during the day. In addition, excused absence must be shown to the satisfaction of the school principal or the school principal's designee. Habitual truancy is an incorrigible act.

- SB 1395 *School Notification* - This bill requires the court to notify the child's school if a child is adjudicated delinquent or convicted of a dangerous offense or a sex offense and the child is placed on probation. The schools may also request the criminal histories of individual students to determine if the child has been adjudicated or convicted of a dangerous or sex offense. The school shall make the information available to teachers, parents, guardians or custodians upon request. NOTE: There is no limitation on the dissemination of this information. It plasters a label on a child which will likely lead to harassment and embarrassment. Unlike the adult system where there is a classification system which places limits on dissemination, there is no classification system for juveniles.

- SB 1258 *Substantive Changes Juvenile Justice* - This is the clean up bill from the major changes from last year. The important provisions fit in three categories; the seemingly good, the possibly bad and the probably ugly. The good is the definition of "chronic felony offender" in 13-501(G)(2). clarifies that the child has had two prior AND separate ADJUDICATIONS AND DISPOSITIONS which would have been historical priors if the child was an adult. There is also the sort of good category. A child will now be able to move to set aside an adjudication (expungement) after successful completion of probation. This provision does not apply to a person convicted of a criminal offense, on probation, who has a criminal charge pending or who has not paid restitution. Also excluded are those adjudicated for dangerous offenses, sex offenses, DUI and civil traffic in Title 29, ch 3 (don't ask me what this is). See 8-348. Also destruction of records is now back in the juvenile code but you can't ask until you are 19 if adjudicated on a misdemeanor or incorrigible act, or 25, if adjudicated on a felony. See 8-349. The possibly bad is that chronic felony offender will not be on the indictment or information but will be in a separate notice (similar to an allegation of priors). If no motion is filed by the defense questioning this classification, then the prosecution will continue. Now the probably ugly stuff. The answer to the question about a 13-501(A) kid who gets convicted of a NON-13-501 offense (e.g. armed robbery charge, convicted of theft from person), the case CANNOT be sent back to juvenile. Also, the juvenile competency statutes seem to no longer

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apply to a child who is prosecuted in adult court. See 8-291.01(B) and 13-4501 (2). It seems that, although very unclear, the definition of incompetent from the juvenile statutes applies to a child in the adult court but now the time limits for restoration are 15-21 months.

And finally to end on a good note:

- A.R.S. 11-584. The Public Defender enabling statute was amended to allow all clients (including juveniles or their parents) being represented by a public defender or court appointed counsel to be assessed $25 at their initial appearance if, after judicial inquiry, they are determined to have the ability to pay. Several states already have a similar program in place with very favorable results. The money is statutorily earmarked for use solely by public defenders and court appointed counsel. ■

PRACTICE POINTERS FOR NEWER ATTORNEYS

By Christopher Doerfler
Deputy Public Defender

I've been practicing law for less than a year and, like many people in the office, I'm really new at this. I often have the feeling that I have much to learn about practicing criminal law in Maricopa County. It seems like not a week goes by without some little technical procedure cropping up that I have never heard of before, and which really, really matters to my client's situation. I am often left wishing that I had known these things, before it was almost too late.

". . .there is one hold you can get lifted: a DOC hold when the parolee is past his ERC."

Since there are a lot of new and newer attorneys in the office, it occurred to me that we could all help each other out by passing along little tidbits of law and practice that we find useful. In that vein, I am submitting this practice pointer, in the hopes that it will help some of you, and encourage others to donate their wisdom as they accumulate it.

Sorry, but you've got a hold . . .

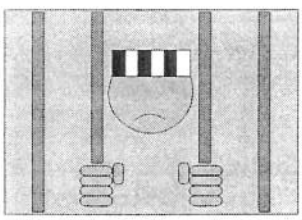
You are sitting in the dank little holding area at justice court, and your client is saying "You just gotta get me out." Sometimes you can, but too often, they have a hold of some sort. Nothing you can do, right?

Not necessarily. I had a client the other week who was, shall we say, a lot more experienced in the criminal justice system than I am. He explained to me that there is one hold you can get lifted: a DOC hold when the parolee is past his ERC.

ERC stands for "Earned Release Credit," and refers to a date, your client's ERC date. The significance of this date is that it marks the day when a parolee is no longer on supervised parole. If a parolee is on unsupervised parole and is re-arrested, DOC automatically puts a hold on him. What happens next is up to the local courts, and you.

The DOC policy in these cases is if the initial appearance court sets a cash bond on the new charge, DOC maintains the hold. If the IA court sets any type of OR bond, including to Pretrial Services, DOC drops the hold. When I spoke to "Joy" at DOC (255-4247), she explained that DOC doesn't have time to review these defendants and their new cases to determine whether they should be held pending the outcome of the case. What DOC wants to accomplish is to maintain a hold on someone who is likely to be returned to prison. The quick and dirty way they have devised to accomplish this is to assume that anyone who gets a cash bond, however small, is going to come back to prison. This policy is highly over inclusive, and undermines the court's discretion in setting an appropriate bond amount. But what can you do?

You can file a motion to release the defendant to some form of OR and explain this DOC policy to the court. You can use the policy to your advantage by making the court see that DOC has put it in the position of releasing a person or, essentially, holding him or her nonbondable. Making the bond choice into an either/or scenario may have the impact of making the court take a closer look at the client and ask, "Is he so dangerous that he should have no chance at release?" A client who already has (and deserves) a low cash bond may get the benefit of the doubt. This is especially true if the defendant looks like he is going to get probation, since the DOC's purpose is to hold only those individuals who are coming back to prison. ■



ARIZONA ADVANCE REPORTS

By Steve Collins
Deputy Public Defender - Appeals

***State v. Bowers*, 269 Ariz. Adv. Rep. 17 (CA 1, 5/19/98)**

Defendant filed a petition for post-conviction relief alleging ineffective assistance of counsel. He claimed he had pleaded guilty pursuant to a plea agreement because his attorney incorrectly advised him regarding the minimum sentence he faced if he went to trial and was convicted.

The Court of Appeals held Defendant presented a colorable claim if he proves he would have gone to trial but for counsel's ineffective assistance. Defendant was not required to prove that he would have been acquitted if he went to trial or that he would have received a lesser sentence if convicted at trial.

***State v. Guerra*, 268 Ariz. Adv. Rep. 25 (CA 1, 4/30/98)**

A.R.S. § 28-692(E) provides there is a presumption a Defendant is under the influence of intoxicating liquor if there is a 0.10% or more alcohol concentration within two hours of the time of driving. The Court of Appeals held relation-back evidence was not required for the jury to be instructed on this presumption.

A.R.S. § 28-692(A)(2) provides it is unlawful if a person has an alcohol concentration of 0.10% or more within two hours of driving. If a Defendant produces "some credible evidence" that his or her alcohol concentration at the time of driving was less than 0.10%, the state must prove beyond a reasonable doubt that the concentration was 0.10% or more at the time of driving. "Some credible evidence" is more than "the failure of the Defendant to vomit or stagger."

***State v. Hammonds*, 268 Ariz. Adv. Rep. 20 (CA 1, 4/28/98)**

Defendant was convicted under A.R.S. § 28-692(A)(3) for driving with a drug's metabolite in his body. Defendant attacked this statute as a denial of equal protection because it was irrationally overinclusive. A metabolite is inactive in the sense that it is incapable of causing impairment. Therefore, "while indicative of what has been in the bloodstream in the past, it says nothing conclusive about what is presently in the bloodstream."

The Court of Appeals held there was no violation of the equal protection clause as there is a "rational basis for believing that the presence of an illicit drug's metabolite establishes the possibility of the presence of the active, impairing component of the drug." It also was held the statute was a rational exercise of legislative power because it has the effect of generally deterring illegal drug use. ■

SELECTED 9TH CIRCUIT OPINIONS

By Louise Stark
Deputy Public Defender - Appeals

***United States v. James*, 139 F.2d 748 (9th Cir. 1998)**

James was convicted of aiding and abetting manslaughter within Indian country. She appeals the trial court's ruling preventing her from introducing extrinsic evidence of the victim's violent acts. James had a fourteen year old daughter, and a violent boyfriend, Ogden. Both mother and daughter knew firsthand of numerous instances in which Ogden had threatened and committed physical violence. They also heard him boast of numerous instances of serious assaults, one murder and other crimes. The 14 year old had successfully fought back physical attacks from Ogden in the past. When Ogden punched her own boyfriend, the 14 year old chased him. At some point she returned to where James sat in a truck, and obtained a gun from James with which she killed Ogden moments later.

Everything the women knew firsthand or Ogden said about his violence was admitted at trial, through their testimony, to support James' claim of self or third party defense in giving her daughter the gun. Extrinsic evidence corroborating Ogden's boasts, and that Ogden acted as they described was properly precluded, per this court, as not relevant to defendant's claim of self defense or as insufficiently linked to the specific acts which James said she witnessed or heard of. Dissent has good language about the relevance of corroborating James' testimony by proving that the stories she said Ogden told had happened.

***United States v. Kyllo*, (9th Cir. 1998) 1998 U.S. App. LEXIS 6829**

Kyllo was suspected of growing and distributing marijuana, based on surveillance, informants, and a review of his subpoenaed utilities records. After determining unusually high electricity use, an agent used an Agema Thermovision 210 thermal imaging device to examine Kyllo's home. This device records heat patterns emitted from objects and displays them. It can 'look' through tinted glass to show the movements of people on the other side, and see people behind curtains. It can show that a person is waving, or embracing in the dark,

(cont. on pg. 11)

through glass; it is used to detect "subsurface problems in the human body" and can differentiate between humans and other animals. It showed the presence of high intensity lights, used to grow marijuana indoors.

With this information, a search warrant was obtained, and an indoor growing operation found. While ruling on a motion to suppress the evidence, the trial court held that the thermal imaging revealed no intimate details of the home, did not intrude on the privacy of persons in the home, could not penetrate walls or windows, nor reveal human activities or conversations. This court holds that the use of a thermal imaging device is a search, and that there is a reasonable expectation of privacy in ordinary domestic activities, such as use of appliances. Scanning with a thermal imager without a warrant is an unreasonable and unlawful search.

***United States v. Sagg*, 125 F.3d 1294 (9th Cir. 1998)**

Defendant placed his minor daughter's hand around his penis and ejaculated. The child remained asleep the entire time. Defendant argued that he did not cause intentional touching, as proscribed in the statute, because his unconscious daughter could have no intent. This court affirms the statutory interpretation that the law describes only the offender's required state of mind. ■

BULLETIN BOARD

Attorney Moves/Changes

Robert Jung, an attorney with the DUI group, leaves the office on June 26. He received a county felony contract, and will continue defense work in private practice.

Jamie McAlister, after three years with this office, will be venturing into private practice at the end of the month. Jamie received a county felony contract.

Alex Navidad will be leaving on July 10. Alex began his career in this office as a law clerk in 1995. After passing the bar, he became an attorney with Group B. Alex will continue his legal career as a Federal Public Defender in Phoenix.

Leslie Newhall, a lead attorney in Group B, will be resigning in early July to move to the Netherlands. After two periods of service with this office, we wish her well in this new journey.

New Support Staff

Brandon Cotto became a law clerk with Group A on June 10. Brandon received his J.D. from the New York Law School and his B.A. in Criminal Justice from Florida Atlantic University. He served in a variety of intern and legal clerk positions throughout his education.

Joyce Hansen, Legal Secretary, began working with SEF on May 26. She has worked extensively in secretarial positions for retail and manufacturing offices.

Marc Hodge, the new Group D Law Clerk, graduated from Emory University School of Law in 1987. His undergraduate degree in Philosophy is from the University of Tennessee. He most recently worked as a Defender Attorney for the Fulton County Public Defender's Office in Atlanta, Georgia.

Support Staff Moves/Changes

Tom Elliot, Information Technology, left the office on June 5. An illness in the family necessitated his departure. Our thoughts are with him.

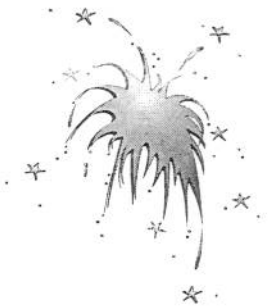
Carlos Lopez, DFM for Group D, left the office on June 16. Carlos came to the office as a trainee in 1995. His new position will be as a bailiff for Judge Katz.

Norma Munoz, Initial Services, leaves the office June 24. She joined the office in 1991, and last year she received the employee Commitment to Excellence Award. She will be running for Justice of the Peace for South Phoenix. Best of luck in your endeavors!

Vicki Ruh relinquished her duties as legal secretary for Group C on May 26.

Mike Skupin, Law Clerk for Group C, resigned effective May 22. We wish him luck in preparing for the bar. ■

Have a safe and happy Fourth of July!



DEFENDANT'S REQUESTED JURY INSTRUCTION NO. _____

ENDANGERMENT

The crime of endangerment requires proof beyond a reasonable doubt of the following three things:

1) that the defendant consciously disregarded a substantial risk that [his] [her] conduct would cause imminent [death] [or] [physical injury] to a victim; **and**

2) that [his] [her] conduct did in fact create such a substantial risk as to [the] [each] victim; **and**

3) the risk must be of such nature and degree that disregard of such risk constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. [It is no defense that the defendant was unaware of the risk solely by reason of voluntary intoxication.]

SOURCE: A.R.S. §§ 13-1201(A) and 13-105(6)(c).
State v. Doss, 1CA-CR 97-0416 (1998), filed April 14, 1998.

May 1998
Jury and Bench Trials

Group A

Dates: Start/Finish	Attorney/ Investigator	Judge	Prosecutor	CR# and Charge(s)	Result: w/ hung jury, # of votes for not guilty/guilty	Bench or Jury Trial
3/24-3/25	Reece & Farney/ Jones	Cole	Charnell	CR 95-08102 2° Murder/ F1D Threatening & Intimidating/ M1 Assault/ M1	Mistrial	Jury
4/6-4/10	Reece & Farney/ Jones	Cole	Charnell	CR 95-08102 2° Murder/ F1D Threatening & Intimidating/ M1 Assault/ M1	Not Guilty 2° Murder Guilty Negl Homicide	Jury
5/4-5/5	Ellig/Greth	Chavez	Boyle	CR 96-05798 Agg. DUI/ F4	Guilty	Jury
5/4-5/7	Farney/ Jones	Dann	J. Davis	CR 97-12532 Disorderly Conduct/ F6D Interfering With Judicial Procedure/ M1	Directed Verdict - F6D Guilty on Misd - IJP	Jury
5/5-5/7	Lawson & Valverde	Wilkinson	W. Moore	CR 97-11792 Agg DUI/ F4	Guilty	Jury
5/6-5/8	Klepper	Smith	Adams	M 97-2409 IJP-misd	Guilty	Bench
5/6-5/11	Rossi	Paddish	McKessey	CR 97-08260 PODD	Guilty	Jury
5/7-5/18	Kent & Howe	Hyatt	Reckart	CR 97-01784 Child Molest/ F2 Sexual Conduct with Minor/ F2 DCAC	Not Guilty Child Molest Hung Jury Sexual Conduct	Jury
5/1-5/15	Ryan/Clesceri	Kamin	Neugebaurer	CR 97-12229 Att. PODD/ F5	Not Guilty	Jury
5/12-5/13	Townsend	Galati	T. Clark	CR 97-09113 Child Abuse/ F4	State offered a better plea bargain after jury selected and first witness (victim) testified. Defendant accepted plea.	
5/13-5/18	Timmer	Yarnell	Sandler	CR96-12870 4 Cts. Child Molest/ F2	Not Guilty on 3 cts of CM; Guilty of 1 ct of Attempt CM.	Bench
5/19-5/28	McAlister & Klepper	Baca	Hudson & Lockhart	CR 97-11051 7 Cts.Agg Assault/ F3 PODD/ F4 PODP/ F6	Directed Verdict on 2 counts of Agg Assault; Guilty on all other counts	Jury
5/2-5/22	Carter	Chavez	Doering	CR 97-09542 POND/ F4	Guilty	Jury
5/27-5/28	Lehner	Crum	Shreve	CR 97-02454 DUI -misd	Guilty	Jury

(cont. on pg. 14) ☞

GROUP B

Dates: Start/Finish	Attorney/ Investigator	Judge	Prosecutor	CR# and Charge(s)	Result: w/ hung jury, # of votes for not guilty/guilty	Bench or Jury Trial
4/27-5/1	Peterson & Bublik	Hotham	Amato	CR 97-09572 16 Cts. Child Molestation/F2	1 Ct. - Not Guilty 15 Cts. - Guilty	Jury
5/5-5/7	Park/ Ames	Bolton	Williams	CR 97-05987 Aggravated DUI/F4	Not Guilty Agg DUI -- Guilty of lesser included Driving on a Suspended License	Jury
5/6-5/8	Roth & Wray	Scott	Eckhardt	CR 97-09792 2 Cts. Aggravated DUI/F4	Guilty	Jury
5/6-5/12	Brown, Joel/ Ames	Gerst	Campagnolo	CR 97-11960 2 Cts. Agg. Aslt./F2D Arson of an Occupied Structure/F2 Disorderly Conduct/F6	Not Guilty - Arson of an Occupied Structure DV - Disorderly Conduct Guilty of 2 Cts. Agg. Aslt. Dangerous	Jury
5/1-5/12	Navidad	Arellano	Grimes	CR 95-11169 Robbery/F4	Guilty	Jury
5/12-5/14	Taradash/ Erb	Bolton	Rea	CR 97-11697 Burglary/F4	Not Guilty	Jury
5/13-5/14	Brown, Joel/ Castro	Hotham	Davidon A.	CR 97-15061 PODD for Sale/F2 POM/F6 PODP/F6 Misconduct Involving Weapons/F4 - 1 prior alleged	Guilty on all counts.	Jury
5/14-5/15	Park/ Ames	Gottsfield	Boyle	CR 97-01186 Aggravated DUI/F4	Guilty	Jury
5/14-5/28	Tom/ Ames	Arellano	Sorrentino	CR 97-00747 2 Cts. Child Molestation/ F2, DCAC 2 Cts. Sexual Abuse/F3, DCAC 2 Cts. Sexual Conduct w/Minor/F2, DCAC 1 Ct. Sexual Exploitation/F2, DCAC	Not Guilty -- 1 Ct. Child Molestation Guilty on all other counts.	Jury
5/18-5/20	Park/ Ames	Gottsfield	Poster	CR 97-03458 1 Ct. POND/F4 1 Ct. PODD/F4	Not Guilty of POND Guilty of PODD	Jury
5/22-5/28	Blieden	Schneider	Gorman	CR 95-11520 Theft/F6	Not Guilty	Jury
5/27-5/28	Doerfler	Bloom	Anderson	TR 97-06777 DUI/M1	Guilty	Jury
5/27-5/28	Park/ Ames	Bolton	Boyle	CR 97-10675 Aggravated DUI/F4	Guilty	Jury
5/28-5/28	Walton	O'Toole	Kalish	CR 98-02344 POM for Sale/F4 PODP/F6	Not Guilty of POM for Sale -- Guilty of lesser included Possession of Marijuana/F6 PODP dismissed prior to trial	Bench

(cont. on pg. 15) ☞

Group C

Dates: Start/Finish	Attorney/ Investigator	Judge	Prosecutor	CR# and Charge(s)	Result: w/ hung jury, # of votes for not guilty / guilty	Bench or Jury Trial
4/27-4/27	Rosales	Araneta	Perrin	CR 97-95547 Larc-G/T Shoplift/F6 Assault/M3	Defendant pled.	Jury
4/27-5/26	Lachemann & (P/C) P. Gitre	Keppel	Levy	CR 96-95002 1 Ct. Murder/F1 2 Cts. Burg/F4	Guilty on both	Jury
4/30-5/5	Klopp-Bryant /Thomas	Ishikawa	Harris	CR 98-90439 1 Ct. Burglary/F4	Guilty	Jury
4/30-5/4	DuBiel	Ellis	Vick	CR 97-94255 Agg DUI/F4 Agg Dr. w/BAC>.10/F4	Guilty	Jury
5/11-5/12	Klopp-Bryant & Pesaresi/ Beatty	Barker	Fuller	CR 98-90527 1 Agg. Asslt, F3 1 Disord Cond/F6 1 Endangerment/F6	Not Guilty of Agg. Asslt. Guilty of Lesser Disord Con. Dismissed Disord. Con. Guilty of Endangerment	Jury
5/12-5/15	Silva & Coolidge/ Thomas	Aceto	Jennings, C.	CR 97-95036 2 Cts. Agg DUI/F4	Guilty	Jury
5/18-5/26	Klobas/ Breen	Ishikawa	Vincent	CR 96-92216 Agg Aslt/F3D Kidnaping/F2D Kidnaping/F2DCAC	Guilty	Jury
5/18-5/18	Bingham	Lamb	Contreras	TR97-01876 Interf. w/Jud. Proc/M1	Guilty	Bench
5/18-5/21	Nermyr	Dairman	Perrin	CR 97-93939 Theft/F5	Hung Jury 5 to 3 for not guilty	Jury
5/19-5/19	Stinson	Barker	Aubuchon	CR 97-94498 POM/F6 PODP/F6	Guilty	Jury
5/22-5/22	Coolidge	Johnson E. Mesa	Park	TR 98-326 Misd. DUI/M1 Miscond w/Weapons/M3 Criminal Speed/M3	Not Guilty Misd. DUI Dismissed Miscond.w/weapons Guilty Criminal Speed	Jury
5/26-5/29	DuBiel & Ramos/ Beatty	Dairman	Vincent	CR 97-95469 Agg Aslt/F3D	Guilty	Jury

Group D

Dates: Start/Finish	Attorney/ Investigator	Judge	Prosecutor	CR# and Charge(s)	Result: w/ hung jury, # of votes for not guilty/guilty	Bench or Jury Trial
4/30-5/1	Kibler	Schwartz	Coury	CR 97-07918 1 Ct. Poss. Of Drug Paraph./ F6; 1 Ct. Misconduct Involving Weapon/ F4; 1 Ct. Transp. Of Marijuana for Sale/ F3; Poss of Marijuana for Sale/ F4	Guilty on all counts	Jury
3/19-5/8	Leyh	Katz	Sigmund	CR 95-05352 1 Ct. Agg. Assault, F6; 1 Ct. False Imprison. F6; 1 Ct. Interferring w/Judicial Proceedings/ MI	Not Guilty on all 3 Counts and Guilty on Lesser Included of Assault-Simple Assault	Bench Trial
5/11-5/18	Billar	Katz	Neal	CR 96-07379 1 Ct.Offr to Sell Crack/ F2; 2 Cts. Sell Crack/ F2; 1 Ct. Poss. Crack/ F4	Guilty	Jury
5/13	Nickerson	MacBeth	Adams	CR 98-00466 1 Ct. Interferring w/Judicial Proceedings/M1	Dismissed	Bench Trial
5/20	Nickerson	MacBeth	Andersen	CR 98-00724 1 Ct. Interferring w/Judicial Proceedings/M1	Not Guilty	Bench Trial
5/20-5/28	Steiner	Katz	Keyt	CR 97-12592 1 Ct. Agg. Assault/ F4	Not Guilty of Agg. Asslt. Guilty of Misd. Assault	Jury

DUI Group

Dates: Start/Finish	Attorney/ Investigator	Judge	Prosecutor	CR# and Charge(s)	Result: w/ hung jury, # of votes for not guilty/guilty	Bench or Jury Trial
5/18-5/20	Carrion	Gerst	Boyle	CR97-10989 2 Cts. Agg DUI/ F4	Guilty	Jury

Office of The Legal Defender

Dates: Start/Finish	Attorney/ Investigator	Judge	Prosecutor	CR# and Charge(s)	Result w/ hung jury, # of votes for not guilty / guilty	Bench or Jury Trial
5/19-5/20	Parzych	Bolton	S.Evans	CR 97-91771 Ct.1: Kidnapping/ F2 Cts. 2-6: Sexual Assault/ F2	Guilty	Jury
5/18-5/20	Patton/ D.Apple	Arellano	J.Gaertner	CR 96-11716 Theft/ F3	Guilty of C5 Theft w/2 priors	Jury
5/7-5/14	Ivy	Baca	B.Gadow	CR 97-03830 4 Cts. Agg.Asslt,/ F3D	Guilty, 2 Cts. Agg.Asslt.Dang. Guilty, Lesser Incl. Att.Agg.Asslt. Dang.	Jury

INSIDE ADDITION

The Insider's Monthly June 1998

TRAINING NEWS

By Lisa Kula
Training Administrator

Calling all funny bones! *Inside Addition* is looking for an editor for "The Lighter Side." If you posses a good sense of humor and would like to contribute jokes, stories or cartoons, let me know. If no one has laughed at your jokes since second grade, but you know someone who always makes you laugh, you may forward their nomination.

Community of Practice

Have you ever:

- Showed someone how to use the new phone system?
- Helped someone find what they were looking for on their computer?
- Explained a process for completing a work assignment?

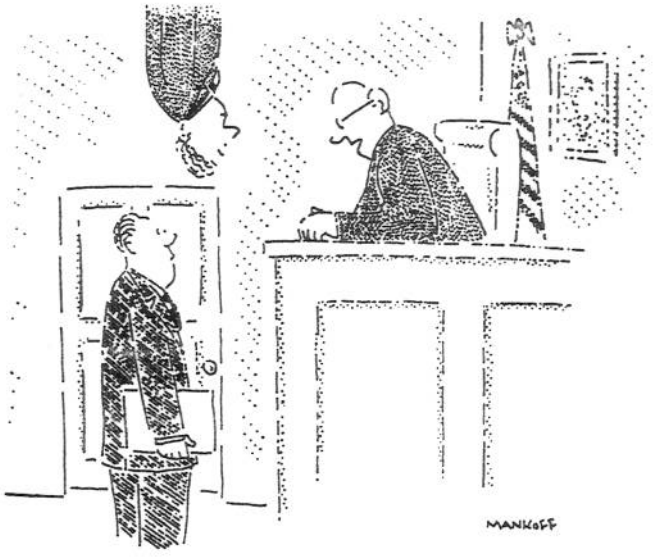
If so, you are a member of a "Community of Practice."

The phrase "community of practice" was coined by Etienne Wenger in his book "Situated Learning". He proposes that the way adults learn, and then apply that learning in the workplace, can best be described as a community of practice. This theory is based on the premise that learning is a social activity, and the most effective learning takes place within social interchange. David Stamps, an associate editor for Training magazine explains,

> At the core of the new thinking is the notion that work and learning are social activities. As people work together, they not only learn from doing, they develop a shared sense of what has to happen to get the job done. They develop a common way of thinking and talking about their work. Eventually they come to share a sort of mutual identity - a single understanding of who they are and what their relationship to the larger organization is. It is in these groups where some of the most valuable and most innovative work-related learning occurs.

The free exchange of information, both formal and informal, is vital to the strength of the community. In order to increase the effectiveness of a community of practice, staff members should freely share ideas, not only with peers, but supervisors and other trial groups and departments. ■

THE LIGHTER SIDE



"Counsellor, please advise your client that, issues of personal safety aside, gravity is the law."

Summertime
...Before and After. . .
Puzzle

1st initial is given
e.g. **L**arry Matthew Modine
James T. Kirk Morris

Clue	First Entry	Middle Entry	Last Entry	Clue
Blackeyed Juv SEF Attorney?	**S**			Alice chased him in Wonderland
"Tomb of the ____ ____ *"*	**U**			Chicago Bears playground?
"My Little.." Juv SEF Attorney?	**M**			Early telegraph language
Always correct Group B Secretary	**M**			First siblings to fly?
Rev. War hero & furniture maker?	**E**			Candid Camera man
MCPD Attorney in Training	**R**			Hit song by Steppenwolf
Group D Attorney in sneakers?	**T**			8th U.S. President
Where they race the 500	**I**			Hoosier State's pro hoops team
Continental Grp C Investigator	**M**			Abraham's capital city?
Eng. muffin, poached egg dish	**E**			Amer. Revolutionary war traitor
OK Corral gunfight was here	**T**			Local Arena football team
Flowery Appeals Secretary?	**R**			*Gunsmoke* title for James Arness
Former Mrs. Steven Spielberg	**A**			Dallas Cowboys' stadium is here
Queenly Group B Attorney?	**V**			Where Congress gathers
Waterway from G. B. & France	**E**			Remote cruising of the airways?
Appeals Attorney of Arabia?	**L**			*War Games* star
Short, sharp surge in output	**E**			Director of *"He Got Game"*
Dale Evans' spouse	**R**			They wrote show tunes